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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202227
Party	Defendant Douglas A. Leftridge
Correspondence Address	DONALD J WALSH OFFIT KURMAN PA 8 PARK CENTER COURT SUITE 200 OWING MILLS, MD 21117 UNITED STATES
Submission	Motion for Sanctions
Filer's Name	Donald J. Walsh
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Signature	/Donald J. Walsh/
Date	04/27/2012
Attachments	Motion - Leftridge 4 27 12.pdf (3 pages)(149281 bytes) Exhibits - Leftridge 4 27 12.pdf (52 pages)(2128769 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UNDER ARMOUR, INC.,

Opposer,

- against -

DOUGLAS LEFTRIDGE,

Applicant.

Opposition No.: 91202227

February 24, 2012

**MOTION TO COMPEL DISCOVERY RESPONSES
AND TO MODIFY THE SCHEDULING ORDER**

Applicant Douglas Leftridge, pursuant to 37 CFR 2.120(e), moves for an Order compelling discovery responses. Opposer has failed in all material aspects to respond to the discovery requests issued by Applicant. Instead, Opposer has simply issued a blanket objection to all interrogatories, objected to each and every Request for the production of documents and failed to provide an opportunity to review *any* documents requested. In short, Opposer has failed in all material aspects to provide any discovery responses and, instead, has engaged in a bad-faith effort of obstructionism.

A. Opposer has failed to provide discovery responses.

On February 24, 2012, Applicant delivered discovery requests to Opposer. The discovery requests consisted of 24 Interrogatories and 36 Requests for the Production of Documents. *See* Discovery Requests and Certificate of Services attached as Exhibit A. Opposer failed to answer or even address any interrogatory. Instead, Opposer submitted a single sentence in response to the 24 Interrogatories stating,

Without waiving Opposer's right to raise specific objections to Applicant's First Set of Interrogatories to Opposer, Opposer objects to Applicant's

First Set of Interrogatories to Opposer on the ground that they exceed the permissible number allowed by 37 C.F.R. § 2.120(d)(1).

See Affidavit of Good Faith Efforts attached as Exhibit B at ¶ 3. No other responses have been received. Similarly, in response to the Requests for the Production of Documents, Opposer objected to every Request, without apparent thought or consideration for the actual subject matter of the Requests, and impermissibly sought to limit its production without justification. Exhibit B at ¶ 4. Moreover, Opposer refused to respond to any attempts at communication to schedule an opportunity to view the extraordinarily limited production Opposer did agree to produce. Opposer's conduct is frivolous, in bad faith, and without merit.

B. Applicant submitted far less than 75 Interrogatories.

There cannot be any genuine dispute that the number of Interrogatories submitted by Applicant is far less than 75. The actual number of Interrogatories submitted is 24. Most of these Interrogatories do not contain any subparts. Indeed, Interrogatories Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 17, 18, 19, 20, 21, 22, 23 and 24 do not contain subparts. Interrogatory No. 14 contains three requests for limited information. Interrogatory No. 16, while requesting a single category of information, may be interpreted, if a party wished to delay discovery in bad-faith, as having five subparts. In total, therefore, even a broad interpretation of what constitutes subparts, would result in the number of Interrogatories being 29.

C. Opposer has failed to engage in any discussions regarding discovery.

Applicant has made every attempt to communicate with Opposer's counsel to permit Opposer to comply with its discovery obligations. In its written responses to the Requests, Opposer agreed to provide access to an extremely limited document production, without identifying a single document. Exhibit B at ¶ 5. On numerous occasions, counsel for Applicant attempted to contact Opposer's counsel to schedule a time to review the documents. Exhibit B at

¶ 6. Opposer's counsel has failed to provide the courtesy of a response. Exhibit B at ¶ 6.

Applicant's counsel has also attempted to discuss the utter lack of response to the Interrogatories and again, Opposer's counsel failed to provide the courtesy of a response. Exhibit B at ¶ 7.

C. An Order compelling discovery responses and modifying the Scheduling Order is necessary and appropriate.

Applicant has been prejudiced by Opposer's utter failure to comply with Opposer's discovery obligations. Opposer has made objections which are unfounded and in bad faith, has failed to provide any response to Interrogatories and has failed to permit any access to any documents it indicated it would produce in response to the Requests for the Production of Documents. An Order compelling discovery is therefore appropriate pursuant to 37 CFR 2.120(e). Moreover, Applicant respectfully requests that the Scheduling Order be modified to permit additional time to engage in discovery as a result of Opposer's conduct.

Dated: April 26th, 2012



Donald J. Walsh
OFFIT KURMAN, PA
8 Park Center Court, Suite 200
Owings Mills, MD 21117
443-738-1583

Counsel for Applicant

CERTIFICATE OF MAILING

I hereby certify on this 26th day of April, 2012 a copy of the foregoing **MOTION TO COMPEL AND TO MODIFY SCHEDULING ORDER** was sent via e-mail to Douglas A. Rettew, Daniel Awdeh, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, 901 New York Ave., NW, Washington, DC 20001.



Donald J. Walsh

EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

UNDER ARMOUR, INC.,

Opposer,

- against -

DOUGLAS LEFTRIDGE,

Applicant.

Opposition No.: 91202227

February 24, 2012

CERTIFICATE OF GOOD-FAITH EFFORTS

I, Donald J. Walsh, hereby certify under penalties of perjury that the following statements are true and accurate.

1. I am an attorney with Offit Kurman, P.A. and represent Douglas Leftridge in the above referenced matter.

2. On February 24, 2012, I sent Interrogatories and Requests for the Production of Documents to Opposer's counsel.

3. I received a one-page document from Opposer's counsel containing a single sentence objecting to all the Interrogatories propounded with no further response from Opposer's counsel. A true and accurate copy of the document received by Opposer's counsel is attached hereto as Exhibit 1.

4. In response to the Requests for the Production of Documents sent to Opposer's counsel, I received Opposer's purported response. Opposer objected to every single request and failed to identify a single document. A true and accurate copy of the response received by Opposer's Counsel is attached hereto as Exhibit 2.

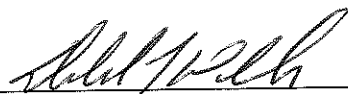
5. Rather than identify any documents, Opposer did purport to make the documents it would produce available for inspection.

6. I attempted to contact Opposer's counsel on April 17 and April 23 via e-mail to schedule a time to inspect the documents Opposer purported to make available. Opposer has failed to provide the courtesy of any response to those requests. A true and accurate copy of the e-mails sent to Opposer's counsel on April 17 and April 23 is attached hereto as Exhibit 3.

7. In my communications with Opposer's counsel, I also sought to engage in a discussion as to the Interrogatories submitted to Opposer and the lack of any appropriate response. Opposer has failed to respond or engage in any communication regarding Opposer's failure to properly respond to discovery requests. Exhibit 3.

I HEREBY SWEAR under penalties of perjury that the above statements are true and accurate to the best of my knowledge and ability.

Dated: April 26, 2012



Donald J. Walsh

EXHIBIT 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIAL AND APPEAL BOARD**

UNDER ARMOUR, INC., Opposer, - against - DOUGLAS LEFTRIDGE, Applicant.	Opposition No.: 91202227 February 24, 2012
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APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Applicant, Douglas Leftridge, addresses its First Set of interrogatories to Opposer, Under Armour, to be responded to and complied with fully within thirty (30) days of service hereof.

INSTRUCTIONS AND DEFINITIONS OF TERMS

A. As used herein, the term "Opposer" refers to Under Armour, Inc. and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Opposer, including all of its partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Opposer.

B. The terms "Opposer's Marks" refers to any designation and/or trademark used or intended to be used by Opposer in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages, including without limitation, United States Trademark Registration No. 3501771 and Application Number 77812483 for the mark "Under Armour" and cited by Opposer in its Notice of Opposition.

C. The term "Applicant" refers to Douglas Leftridge and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with Applicant, including all of his or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for Applicant.

D. The terms "Applicant's Mark" refers to the designation and/or trademark sought to be registered by means of Application Serial No. 85200700.

E. Whenever the terms "documents" or "all documents" are used herein, these terms are meant to include all documents available to Opposer and further to include, without limitation, any written, recorded, graphic, or printed matter, in whatever form, whether printed and/or produced by hand or any other process, specifically including (1) all originals, copies or drafts; and (2) originals, copies or drafts on which appear any notes or writings placed thereon after the document was first printed, typed, recorded, or made into graphic matter, however produced or reproduced, in the actual or constructive possession of Opposer, including, without limitation, any letters, telegrams, memoranda, writings, circulars, monographs, bulletins, manuals, speeches, audio and video tapes, drawings, blueprints, recordings, computer disks or tapes, computer electronic or optical memory devices in readable form, computer printouts, computer electronic messages, notes, correspondence, communications of any nature, summaries of records of conversations or conferences, information which can be retrieved by any process, test and/or analysis, reports and data sheets, specifications, sketches, minutes or reports and/or summaries or interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1), Federal Rules of Civil Procedure.

Any document bearing on any sheet or side thereof any marks, not a part of the original text or any reproduction thereof is to be considered a separate document for purposes of responding to the following specific document requests.

In the event Opposer wishes to assert either attorney-client privilege or work-product exclusion, or both, as to any document for which production is requested by any of the following specific document requests, then as to each document subject to such assertion, Opposer is requested to provide such identification to include: the nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list of Opposer associated with such document, a summary statement of the subject matter(s) of such document in sufficient detail to permit the Trademark Trial and Appeal Board to conduct an analysis to reach a determination of any claim of privilege or exclusion and separate indication of the basis for assertion of privilege or the like for each such document.

F. Over and above the requirements of Rule 26(e) of the Federal Rules of Civil Procedure to supplement responses, it is requested that these discovery requests be treated as continuing. If Opposer becomes aware of any supplemental information or documents relating to these discovery requests and which were not included in the initial responses hereto, Opposer is requested to furnish said additional information or documents to the attorneys for Opposer as soon as possible.

G. Wherever in the following interrogatories Opposer is asked to identify documents, it is requested that the documents be identified by stating:

1. General type of document, i.e., letter, memorandum, report, miscellaneous, notes, etc.;
2. Date;
3. Author;
4. Organization, if any, with which author was connected;
5. Addressee or recipient;
6. Other distributees;
7. Organization, if any, with which addressee or recipient, or distributees were connected;
8. General nature of the subject matter to extent that Opposer can do so without divulging matter considered by it to be privileged;
9. Present location of such document and each copy thereof known to Opposer, including the title, index number and location, if any, of the file in which the document is kept or the file from which such document was removed, if removed for the purposes of this case, and the identity of all persons responsible for the filing or other disposition of the document.

H. Wherever in the following interrogatories Opposer is asked to identify persons, it is requested that the persons be identified by stating:

1. Their full name, home and business addresses, if known;
2. Their employment, job title or description; and
3. If employed by Opposer, their dates and regular places of employment and general duties.

I. Wherever in the following interrogatories Opposer is asked to identify companies or the response to an interrogatory would require the identification of a company, it is requested that the company be identified by stating:

1. Its full corporate name;
2. A brief description of the general nature of its business;
3. Its state of incorporation;
4. The address and principal place of business; and
5. The identity of the officers or other person having knowledge of the matter with respect to which the company has been identified.

J. Wherever in the following interrogatories Opposer is asked to identify goods, products or services, or the marking used in combination with the goods or services, it is requested that the same be identified by stating the catalog, stock, model or the like number or designation, the trademark, name, type, grade, design element, or stylized appearance of the mark, and any other designation customarily used by the party concerned to designate such goods, products or services, or the like, and to distinguish it from others made by the same or a different producer.

K. Should Opposer deem to be privileged any document concerning information which is requested by any of the following interrogatories, Opposer shall list such documents and supply information as requested in Paragraph G above concerning such documents, and additionally shall indicate that they claim privilege therefore, briefly state the nature of the document, the sender, the author, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list of Opposer associated with such document, a summary statement of the subject matter(s) of such document in sufficient detail to permit the Trademark Trial and Appeal Board to conduct an analysis to reach a determination of any claim of privilege or exclusion and separate indication of the basis for assertion of privilege or the like for each such document

L. Whenever the terms "documents" or "all documents" are used herein, these terms are meant to include all documents available to Opposer and further to include, without limitation, any written, recorded, graphic, or printed matter, in whatever form, whether printed and/or produced by hand or any other process, specifically including (1) all originals, copies or drafts, and (2) originals, copies or drafts on which appear any notes or writings placed thereon after the document was first printed, typed, recorded, or made into graphic matter, however produced or reproduced, in the actual or constructive possession of Opposer, including, without limitation, any letters, telegrams, memoranda, writings, circulars, monographs, bulletins, manuals, speeches, audio and video tapes, drawings, blueprints, recordings, computer disks or tapes, computer electronic or optical memory devices in readable form, computer printouts, computer electronic messages, notes, correspondence, communications of any nature, summaries of records of conversations or conferences, information which can be retrieved by any process, test and/or analysis, reports and data sheets, specifications, sketches, minutes or reports and/or summaries or interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade, and including any tangible things within the scope of Rule 34(a)(1), Federal Rules of Civil Procedure.

Any document bearing on any sheet or side thereof any marks not a part of the original text or any reproduction thereof is to be considered a separate document for purposes of responding to the following specific document requests.

M. Each of the separate interrogatories herein is deemed to seek separate answers and responses as of the date hereof and these interrogatories shall be deemed to be continuing and any additional information relating in any way to these interrogatories and to events occurring or documents existing prior to the filing of the Opposition herein which Opposer acquires or which becomes known to Opposer up to and including the close of the rebuttal testimony period shall be furnished to Opposer within a reasonable time after such information is acquired or becomes known.

INTERROGATORIES

Interrogatory No. 1:

Identify all individuals who may possess personal knowledge relevant to your Opposition, the registration of Opposer's Marks, and/or Applicant's Mark.

Interrogatory No. 2:

Describe in detail all past and existing relations, including contracts, agreements, licenses, assignments, or other relations, between Opposer and any third party, including predecessor companies, related, or affiliated companies, relating in any manner to Opposer's Marks.

Interrogatory No. 3:

With respect to Opposer's Marks, identify the person or persons most knowledgeable about Opposer's current and proposed sales, advertising and sales promotion, adoption and use, licensing, and assignment or other transfer of rights.

Interrogatory No. 4:

Identify all state and federal registrations, applications for registration, and uses by Opposer of any mark which incorporates the term "ARMOUR" in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages, including without limitation, United States Trademark Registration No. 3501771 and Application Number 77812483 for the mark "Under Armour" and cited by Opposer in its Notice of Opposition, and for each such registration, application, and use, identify all documents relating thereto.

Interrogatory No. 5:

Identify all third-party state and federal registrations, applications for registration, and uses known to Opposer of any mark which incorporates the term "ARMOUR" in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages, including without limitation, United States Trademark Registration No. 3501771 and Application Number 77812483 for the mark "Under Armour" and cited by Opposer in its Notice of Opposition, and for each such registration, application, and use, identify all documents relating thereto.

Interrogatory No. 6:

Identify and describe each of the goods on which Opposer intends to use or has used Opposer's Marks, or any variation thereof.

Interrogatory No. 7:

State whether any searches or investigations were conducted by Opposer, its attorneys, or any persons on its behalf to determine whether Opposer's Marks were available for use and/or registration, and, if so, identify each such search or investigation

including the date such search or investigation was performed and the marks located in such search or investigation.

Interrogatory No. 8:

Identify all manufacturers or intended manufacturers of goods bearing Opposer's Marks.

Interrogatory No. 9:

For each of the goods identified in Opposer's Registration No. 3501771 and Application No. 77812483, identify all documents supporting the date on which the mark was first used, if use has commenced.

Interrogatory No. 10:

Identify all documents and set forth with specificity all facts with respect to any instance where a person or entity has been confused, mistaken, and/or deceived as to whether any goods or services advertised or sold under Opposer's Mark are those of Applicant, or are connected or associated with Applicant, and for each such incident provide the date of such incident, the identity of the person or entity, and a detailed description of the circumstances of such confusion, mistake and/or deception.

Interrogatory No. 11:

Identify all documents and set forth with specificity the substance of each communication, oral or written, received by Opposer, which suggests, implies or infers that any of the products of Opposer sold under Opposer's Mark, or any mark that includes the term "ARMOUR", is a product of Applicant or is affiliated, connected and/or associated with Applicant, or which inquires as to whether there is or may be an affiliation, connection and/or association between Opposer and Applicant, and identify any response(s) by Opposer to each such communication.

Interrogatory No. 12:

Identify all inquiries, investigations, surveys, evaluations and or studies conducted by Opposer or by anyone acting for or on its behalf with respect to Opposer's Mark, and marks owned or used by Opposer which incorporate the term "ARMOUR" as an element of the mark, including the date conducted, the name, address and title of each person who conducted it, the purpose for which it was conducted, the findings or conclusions made, and identify all documents which record, refer to, or relate to such inquiry, investigation, survey, evaluation or study.

Interrogatory No. 13:

Identify each different sign, display, point-of-sale display, label, hangtag, wrapper, container, package, advertisement, brochure, promotional material, and the like, known to Opposer which contains or bears Opposer's Marks or any variation thereof and which is intended to be used or has been used or disseminated at any time by Opposer.

Interrogatory No. 14:

Identify each person employed by Opposer, or each outside agency or agent retained by Opposer, who has been or now is responsible for the following activity with respect to any of the goods or services intended to be offered or rendered or actually offered or rendered under Opposer's Marks:

- a. marketing;
- b. advertising and promotion; and
- c. bookkeeping and accounting.

Interrogatory No. 15:

Has Opposer ever licensed or permitted or had negotiations to license or permit, or otherwise granted rights to third parties to use Opposer's Marks? If so, identify the party or parties who have received or sought such license or permission or other right, state the nature and extent of any such license or permitted use or right, given or negotiated, and identify and describe all documents comprising or containing any such license, permission, or other right, or any agreement in respect to such mark.

Interrogatory No. 16:

Set forth the projected number of units and dollar amount of the annual sales of goods sold under the Opposer's Marks, the projected dollar amount of annual advertising expenditure on such goods, and the individual media through which such advertising are to take place, and the projected dollar amount of advertising through each such media; and identify documents sufficient to support your response to this interrogatory.

Interrogatory No. 17:

State in detail the channels of trade in which Opposer's Marks are to be used and/or in which goods bearing Opposer's Marks are to be sold, including the geographic area by state, territory or possession in which Opposer's Marks are used and/or sold, the manner in which the goods or services reach the ultimate consumer, the geographical reach of each such channel, and the approximate percentage of total sales of goods and/or services through each such channel, and identify documents sufficient to support your response to this interrogatory.

Interrogatory No. 18:

Identify each statement or opinion obtained by or for Opposer regarding any issue in this opposition proceeding including, but not limited to, whether the statement was oral or in writing, and identify all documents which relate to such statement or opinion.

Interrogatory No. 19:

Identify with specificity the marketing methods used in the advertising and/or sale of goods and/or services by or for Opposer under Opposer's Marks, including, without limitation, the names of television stations, radio stations, Internet web sites, newspapers, magazines, trade journals or periodicals, and/or retail establishments in which Opposer has advertised and intends to advertise its goods under Opposer's Marks, and identify documents sufficient to support your response to this interrogatory.

Interrogatory No. 20:

Identify the ordinary purchaser of the goods sold and intended to be sold under Opposer's Marks including, without limitation, the level of care exercised by such an ordinary purchaser in purchasing the goods or services sold under Opposer's Marks.

Interrogatory No. 21:

Identify all documents relating to and set forth with specificity all facts regarding any instance where Opposer has notified anyone that any trademark or service mark used by that person or entity infringed Opposer's Marks, and for each such instance provide a detailed description of any action taken thereafter.

Interrogatory No. 22:

Has Opposer ever been a party to any litigation or administrative proceeding, other than the present opposition, involving Opposer's Marks? If so, state all circumstances surrounding same including, without limitation, the name of the parties and identification of the proceeding, Opposer's status therein, the mark or marks involved, the type of proceeding involved, the name of the court or agency in which it was filed, the date of the filing and the file number, the ultimate disposition of the proceedings, and identify each document relating to such proceeding.

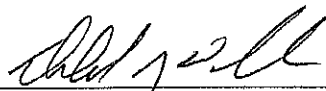
Interrogatory No. 23:

Identify all experts employed by Opposer for purposes of this action. For each expert, identify his or her field of specialization, whether Opposer intends to call him or her as a witness, the subject matter on which he or she is expected to testify, the bases for each opinion, and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the expert is expected to testify.

Interrogatory No. 24:

Identify each non-expert witness that Opposer expects to testify, the subject matter on which the witness is expected to testify, each fact and/or opinion to which the witness is expected to testify, the bases for each opinion and identify all documents that relate in any way to the subject matter, facts, and/or circumstances as to which the witness is expected to testify.

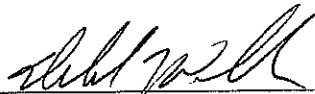
Dated: February 24, 2012


Donald J. Walsh
OFFIT KURMAN, PA
8 Park Center Court, Suite 200
Owings Mills, MD 21117
443-738-1583

Counsel for Applicant

CERTIFICATE OF MAILING

I hereby certify on this 24th day of February, 2012 a copy of the foregoing **APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER** was sent via e-mail to Douglas A. Rettew, Daniel Awdeh, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, 901 New York Ave., NW, Washington, DC 20001.



Donald J. Walsh

EXHIBIT 2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UNDER ARMOUR, INC., Opposer, v. DOUGLAS A. LEFTRIDGE, Applicant.	Opposition No. 91202227 Serial No. 85200700 Mark: ARMOURADE Filing Date: December 17, 2010
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OBJECTIONS TO APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER


Under Armour, Inc. ("Opposer"), through its counsel, responds to Applicant Douglas A. Leftridge's First Set of Interrogatories as follows:

GENERAL OBJECTION

Without waiving Opposer's right to raise specific objections to Applicant's First Set of Interrogatories to Opposer, Opposer objects to Applicant's First Set of Interrogatories to Opposer on the ground that they exceed the permissible number allowed by 37 C.F.R. § 2.120(d)(1).

Dated: March 28, 2012

Respectfully Submitted,

By: 
Douglas A. Rettew
Danny M. Awdeh
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413
Telephone: 202-408-4000

Attorneys for Opposer
UNDER ARMOUR, INC.

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing OBJECTIONS TO APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER was served by email and first class mail, postage prepaid, on this 28th day of March 2012, upon counsel for Applicant:

Donald Walsh, Esq.
Offit Kurman
8 Park Center Court
Suite 200
Owings Mills, MD 21117

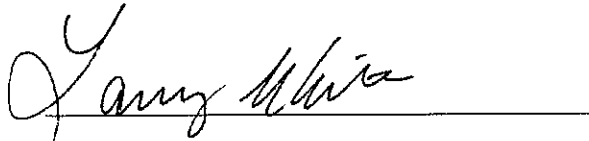
A handwritten signature in cursive script, appearing to read "Gary White", is written over a horizontal line.

EXHIBIT 3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UNDER ARMOUR, INC., Opposer, v. DOUGLAS A. LEFTRIDGE, Applicant.	Opposition No. 91202227 Serial No. 85200700 Mark: ARMOURADE Filing Date: December 17, 2010
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**OBJECTIONS AND RESPONSES TO APPLICANT'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO OPPOSER**

Under Armour, Inc. ("Opposer"), through its counsel, responds to Applicant Douglas A. Leftridge's ("Applicant") First Requests for Production of Documents as follows:

GENERAL OBJECTIONS

In the interest of clarity and brevity, Opposer sets forth the following general objections. These objections apply to each of Applicant's specific interrogatories and document requests ("Requests"), unless the context clearly indicates otherwise. All subsequent responses are subject to and limited by these objections.

1. Opposer objects to Applicant's Requests to the extent they seek information, documents, or things falling within the scope of the attorney-client and/or work-product privileges or information or documents containing or reflecting the mental impressions, conclusions, opinions, or legal theories of Opposer's attorneys or other representatives. Opposer further objects to the Requests to the extent that they seek information, documents, or things that are privileged or otherwise protected from disclosure. Inadvertent production or disclosure of any such information, documents, or things shall not constitute a waiver of any privilege or any

other ground for objecting to discovery with respect to such information, documents, or things; any other information, documents, or things; or the subject matter thereof. Nor shall inadvertent production or disclosure waive Opposer's right to object to the use of any such information, documents, or things during this action or in any subsequent proceeding. Opposer reserves the right to request the return of any inadvertently produced privileged documents and to challenge Applicant's use of any such documents.

2. Opposer objects to Applicant's Requests to the extent they seek the production of documents or things that are neither relevant to a claim or defense of any party nor reasonably calculated to lead to the discovery of admissible evidence. Opposer reserves the right to request the return of any inadvertently produced non-relevant documents or things. Moreover, the production of any non-relevant information, documents, or things, whether or not in response to any discovery requests, is not to be construed as a waiver of a claim of irrelevancy.

3. Opposer objects to Applicant's Requests to the extent they seek to impose obligations to produce documents or things in a manner not provided by the Federal Rules of Civil Procedure and/or the Board Rules.

4. Opposer objects to Applicant's Requests to the extent they seek to impose obligations regarding the creation of a privilege log not imposed by the Federal Rules of Civil Procedure. Opposer will produce a privilege log in accordance with those rules.

5. Opposer objects to Applicant's Requests to the extent they call for the production of documents or things not within Opposer's possession, custody, or control.

6. Opposer objects to Applicant's Requests to the extent they are duplicative.

7. Opposer objects to Applicant's Requests to the extent they are not limited in time.

8. Opposer objects to Applicant's Requests to the extent they are not limited in geographic scope to the United States. All responses are limited to information, documents, and/or things pertaining to the use and registration of Opposer's ARMOUR Marks in the U.S.

9. Opposer objects to Applicant's Requests to the extent they seek (a) information, documents, or things unavailable to Opposer; (b) information, documents, or things in the public domain and equally available to Applicant or Applicant's counsel; and/or (c) information, documents, or things already within Applicant's possession, custody, or control.

10. Opposer objects to Applicant's Requests to the extent they purport to require Opposer to conduct discovery of or to investigate third persons, or to reply on behalf of persons or corporations over whom Opposer exercises no control or on whose behalf Opposer has no authority to respond.

11. Opposer objects to Applicant's Requests to the extent they are vague, ambiguous, overbroad, oppressive, and/or unduly burdensome.

12. Opposer's representation that it will produce and/or make responsive, relevant, and non-privileged documents and things available for inspection and copying does not necessarily mean that responsive, relevant, and non-privileged documents and things exist. To the extent that they do exist, they will be produced and/or made available for inspection and copying.

13. Opposer's written objections and responses are based on information presently available to and located by Opposer and its attorneys. As Opposer has not completed its investigation of all facts relating to this action, its discovery in this action, or its preparation for any hearing or trial, Opposer's written objections and responses are made without prejudice to its

right to supplement or amend its written objections and responses and to present evidence discovered hereafter, including at any hearing or trial.

14. Opposer objects to the term "Opposer" as defined on the ground that it is overly broad, unduly burdensome, and beyond the scope of discovery. For purposes of its responses, Opposer construes the term "Opposer" consistent with the definition in Opposer's First Set of Interrogatories to Applicant.

15. Opposer objects to the term "Opposer's Marks" as defined on the ground that it is overly broad, unduly burdensome, and beyond the scope of discovery. For purposes of its responses, Opposer construes the term "Opposer's Marks" consistent with the definition for "Opposer's ARMOUR Marks" in Opposer's First Set of Interrogatories to Applicant.

16. Opposer objects to the term "record" as used in the Requests on the ground that it is vague, ambiguous, and undefined.

17. To the extent general objections are cited to specific discovery requests, those citations are provided because they are believed to be particularly applicable to the requests and are not to be construed as a waiver of any other general objection applicable to the requests.

RESPONSES

REQUEST NO. 1

Produce all documents which record, refer to, or relate to the proposed organization, incorporation, structure, operation and activities of Opposer's business insofar as they relate to any products sold and/or services to be offered by and/or intended to be sold, offered or promoted by Opposer under Opposer's Mark.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad and beyond the scope of discovery to the extent that it seeks documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, e.g., documents recording, referring, or relating to the proposed organization, incorporation, structure, operation, and activities of Opposer's business. Opposer's response is limited to documents sufficient to identify its corporate structure as it relates to Opposer's Marks for beverage products.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) recording, referring, or relating to the proposed organization, incorporation, structure, operation, and activities of Opposer's business, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 2

Produce all documents which record, refer to, or relate to any proposed, pending or signed licenses, assignments, agreements, contracts, and/or arrangements between Opposer and any third party which relate in any manner to Opposer's Marks.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks proposed, pending, and/or signed licenses, assignments, agreements, contracts, and/or arrangements between Opposer and any third party that relate “in any manner to” (emphasis added) Opposer’s Marks, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Opposer’s response is limited to licenses, assignments, agreements, contracts, and/or arrangements concerning the use of Opposer’s Marks for beverage products, if any.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) referring or relating to proposed, pending, and/or signed licenses, assignments, agreements, contracts, and/or arrangements, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents (if any) available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 3

Produce all documents which record, refer to, or relate to Opposer’s current or proposed use of the term “Under Armour” designation, including Opposer’s investigation of Applicant’s Mark for its availability for adoption and registration, its licensing, use, intended use, exploitation, and/or intended exploitation.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks documents referring or relating to Opposer's use of "Under Armour" generally without qualification.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating to Opposer's use of "Under Armour" generally, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Opposer objects to this request on the ground that it is confusing and cannot be reasonably interpreted as drafted. Specifically, the request initially asks for documents relating to Opposer's use of "Under Armour." It then requests, as an example, documents related to the availability for adoption and use of "Applicant's Mark." In view of this conflict, Under Armour cannot reasonably determine what documents Applicant seeks.

REQUEST NO. 4

Produce all documents which record, refer to, or relate to Opposer's current or proposed use of the term "Under Armour" in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating to Opposer's current or proposed use of the term "Under Armour" in connection with any beverages, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 5

Produce all documents which record, refer to, or relate in any manner to the subject matter of this opposition proceeding.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks documents referring or relating "in any manner to" (emphasis added) the subject matter of this opposition proceeding, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating in any manner to the subject matter of this opposition proceeding, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 6

Produce all documents which record, refer to, or relate to goods and/or services which are or are to be provided under Opposer's Marks.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it encompasses *all* goods and services offered or to be offered under Opposer's Marks without qualification.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating to all goods and services offered or to be offered under Opposer's Marks, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 7

Produce all documents which record, refer to, or relate to Opposer's advertising, intended advertising, promotion, and/or intended promotion of any goods and/or services under Opposer's Mark.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks documents referring or relating to Opposer's advertising/promotion and intended advertising/promotion of *all* goods and services offered under Opposer's Marks without qualification.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating to Opposer's advertising/promotion and intended advertising/promotion of any goods and services offered under Opposer's Marks, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 8

Produce all documents which record, refer to, or relate to Opposer's sales or intended sales of any goods and/or services under Opposer's Marks.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks documents referring or relating to Opposer's sales or intended sales of *any* goods and services under Opposer's Marks without qualification.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating to Opposer's sales or intended sales under Opposer's Marks, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 9

Produce all documents which record, refer to, or relate to the selection, design, adoption, proposed use of, decision to use, and first use of Opposer's Marks and/or any mark including the term "Armour" in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages, including samples of any names, designations and/or other marks considered and rejected in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks documents referring or relating to “other” names, designations, and/or marks considered and rejected, which includes names, designations, and/or marks that do not contain “Armour” (or any variation) and are thus beyond the scope of discovery.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) referring or relating to the selection, design, adoption, proposed use of, decision to use, and first use of Opposer’s Marks, which includes documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 10

Produce all documents which record, refer to, or relate to any searches, investigations, studies, analyses, or inquiries conducted by or on behalf of Opposer, or by any person acting for on or its behalf, regarding the availability and/or registrability of Applicant’s Mark, or of the term “Armourade.”

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) regarding the availability and/or registrability of Applicant’s Mark or “Armourade,” which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents (if any) available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 11

Produce all documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any applications for registration, state or federal, of marks incorporating the term “Armour” by Opposer in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) referring, relating to, or “in any way concerned with” the preparation, filing, and/or prosecution of applications, which could

include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 12

Produce all documents which record, refer to, or relate to Opposer's consideration or decision to select, adopt and/or use Opposer's Marks and/or any designation including the term "Armour" in each different logotype, design, hang tag, packaging, font of type or style in which said designation is being used, or is intended to be used, by or on behalf of Opposer in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer objects to "font of type" as used in this request on the ground that it is vague, ambiguous, and confusing.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it covers "each different logotype, design, hang tag, packaging, font of type or style." (emphasis added)

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) that “record,” refer, or relate to consideration or selection of Opposer’s Marks, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 13

Produce a sample of each different logotype, design, hang tag, packaging, font of type or style in which Opposer’s Marks and/or any designation including the term “Armour” is being used, or is intended to be used, by or on behalf of Opposer in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.

RESPONSE:

Opposer objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery to the extent it calls for a sample of “each different logotype, design, hang tag, packaging, font of type or style.” (emphasis added)

Opposer objects to “font of type” as used in this request on the ground that it is vague, ambiguous, and confusing.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett &

Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 14

Produce a sample of each and every different advertisement, intended advertisement, item of promotional materials and/or intended item of promotional material printed and/or disseminated in which Opposer's Marks and/or any designation including the term "Armour" is being used, or is intended to be used, by or on behalf of Opposer in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.

RESPONSE:

Opposer objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery to the extent it calls for a sample of "each and every different advertisement, intended advertisement, item of promotional materials and/or intended item of promotional material." (emphasis added)

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 15

Produce a sample of each product which is being used or is intended to be used by Opposer in which Opposer's Marks appears.

RESPONSE:

Opposer objects to "product which is being used or is intended to be used by Opposer" as vague, confusing, and undefined.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery.

REQUEST NO. 16

Produce copies of all television commercials, press releases, radio scripts and other media advertising not previously requested herein, prepared by or for Opposer whether or not released or aired, in which Opposer's Mark and/or any designation including the term "Armour" is being used, or is intended to be used, by or on behalf of Opposer in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.

RESPONSE:

Opposer objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery to the extent it calls for "all television commercials, press releases, radio scripts and other media advertising not previously requested herein, prepared by or for Opposer whether or not released or aired." (emphasis added)

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 17

Produce all documents which record, refer to, or relate to the amount of sales (actual and/or projected) by calendar quarter of goods sold by or for Opposer under Opposer's Mark in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations

for making beverages including, without limitation, the identification of the goods or services, the number of units and/or services sold, the dates of the sales, and the dollar value of the sales.

RESPONSE:

Opposer objects to “the identification of the goods or services” as used in the Request as vague and confusing.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) that record, refer, or relate to Opposer’s sales, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 18:

Produce all documents which record, refer to, or relate to any communication, oral or written, received by Opposer from any person which suggests, implies, or infers any connection or association between Opposer and Applicant, or which inquires as to whether there is or may be such a connection or association.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) that record, refer, or relate

to communications received by Opposer, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 19:

Produce all documents which record, refer to, or relate to any instance or occurrence of likelihood of confusion and/or actual confusion on the part of any person between Applicant's mark and any of Opposer's Marks.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to "instance or occurrence of likelihood of confusion" as used in this Request as vague and confusing.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) that record, refer, or relate to any instance or occurrence of likelihood of confusion and/or actual confusion, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents available for

inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 20:

Produce all documents which record, refer to, or relate to Applicant's knowledge and/or awareness of the use and/or application for registration of Opposer's Marks by Opposer.

RESPONSE:

Opposer objects to this request to the extent that it seeks documents and things that are not within its possession, custody, or control, i.e., documents related to Applicant's knowledge and/or awareness.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 21:

Produce all documents which record, refer to, or relate to Opposer's knowledge and/or awareness of the use and/or application for registration of Applicant's Marks.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) that record, refer, or relate to Opposer's knowledge/awareness, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 22:

Produce all documents which record, refer to, or relate to any inquiry, investigation, evaluation, analysis, or survey conducted by Opposer or any person acting for or on behalf of Opposer regarding any issues involved in this proceeding.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request on the ground that “any of the issues in this proceeding” (emphasis added) as used in this request is vague, ambiguous, and undefined and could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) that record, refer, or relate to any inquiry, investigation, evaluation, analysis, or survey, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents available for

inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 23:

Produce all documents which record, refer to, or which constitute any research, reports, surveys, or studies conducted by or on behalf of Opposer of consumer or customer perception of Opposer's Marks.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer also objects to this request on the ground that "consumer or customer perception" as used in this request is vague, ambiguous, and undefined.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) that record, refer, or relate to any research, reports, surveys, or studies conducted by or on behalf of Opposer, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 24:

Produce all documents in your possession or control that refer or relate to Applicant or Applicant's Marks.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks “all documents” (emphasis added) that refer or relate to Applicant or Applicant’s Marks, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 25:

Produce all press releases, articles and clippings relating to or commenting on goods or services marketed or sold under Opposer’s Marks.

RESPONSE:

Opposer objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery to the extent that it seeks “all press releases, articles and clippings relating to or commenting on goods or services marketed or sold under Opposer’s Marks.” (emphasis added)

Opposer also objects to this request to the extent that it seeks documents and things that are not within its possession, custody, or control.

Opposer further objects to this request to the extent that it seeks documents and things in the public domain and equally available to Applicant or Applicant’s counsel.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its

counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 26:

Produce documents sufficient to identify all goods and/or services in connection with which Opposer uses and/or intends to use Opposer's Marks and/or any designation that includes the term "Armour" Mark in connection with any beverages including but not limited to, beers, mineral and aerated waters and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages including, without limitation, the identification of the goods or services, the number of units and/or services sold, the dates of the sales, and the dollar value of the sales.

RESPONSE:

Opposer objects to this request as vague and confusing.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 27:

Produce a copy of any statements and/or opinions of any expert obtained by Opposer or any person acting for or on behalf of Opposer regarding any of the issues in this opposition proceeding.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer objects to “any statements” as used in this request as overly broad.

Opposer also objects to this request on the ground that “any of the issues in this opposition” (emphasis added) as used in this request is vague, ambiguous, and undefined and could include information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Opposer further objects to this request as premature to the extent it requires Opposer to produce expert reports before it is required to do so under the Board’s Institution Order.

Opposer objects to this request to the extent it seeks information and documents that are not subject to discovery pursuant to the Board’s Rules, the Federal Rules of Civil Procedure, and/or the parties’ discovery stipulations.

Subject to the above general and specific objections, and to the extent this request is understood, Opposer will make responsive, relevant, and non-privileged documents (if any) available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 28:

Produce a copy of all documents, other than those produced in response hereto, upon which Opposer intends to rely in connection with this opposition proceeding.

RESPONSE:

Opposer objects to this request as premature to the extent it requires Opposer to produce documents upon which it intends to rely before the close of its testimony/trial period.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its

counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 29:

Produce all documents identified in response to Applicant's First Set of Interrogatories to Opposer not produced in response to the above requests.

RESPONSE:

Opposer incorporates by reference its objections to Applicant's First Set of Interrogatories.

REQUEST NO. 30:

Produce all documents in Opposer's possession or control which refer or relate to Applicant.

RESPONSE:

Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer objects to this request to the extent it is duplicative of other requests.

Opposer also objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks documents referring or relating to Applicant generally, irrespective of the content of those documents, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating to Applicant, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 31:

All documents referring or relating to all judicial and administrative proceedings in any forum, including but not limited to the U.S. Patent and Trademark Office, federal court, state court, agency or other forum, involving or relating to Applicant's Mark(s), or any names, marks, or designations comprised of or containing the suffix "-ADE," other than this proceeding.

RESPONSE:

Opposer objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery to the extent it covers proceedings involving names, marks, or designations comprised of or containing the suffix "-ADE" irrespective of the specific nature of those proceedings.

Opposer also objects to this request to the extent that it seeks documents that are (1) not within its possession, custody, or control, and/or (2) in the public domain and equally available to Applicant or Applicant's counsel.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

REQUEST NO. 32:

All documents referring or relating to the circumstances under which Applicant first became aware of Opposer, Opposer's Mark, and any of Opposer's Products, including the date when and how Applicant became aware of the foregoing and the persons most knowledgeable about the foregoing.

RESPONSE:

Opposer objects to this request to the extent that it seeks documents and things that are not within its possession, custody, or control.

Opposer has no documents in its possession, custody, or control referring or relating to the circumstances under which Applicant precisely first became aware of Opposer, Opposer's Mark, and any of Opposer's Products.

REQUEST NO. 33:

Documents sufficient to identify all outlets through which Applicant's Products have been offered or sold, are offered or sold, and/or have ever been intended to be offered or sold.

RESPONSE:

Opposer objects to this request to the extent that it seeks documents and things that are not within its possession, custody, or control.

Opposer has no documents in its possession, custody, or control identifying the outlets through which Applicant's Products have been offered or sold, are offered or sold, and/or have ever been intended to be offered or sold.

REQUEST NO. 34:

All documents in Applicant's possession, custody, or control that refer or relate to any third-party use or registration of any mark comprised of or containing "ARMOUR," "ARMOR," the suffix "-ADE," or any variation.

RESPONSE:

Opposer objects to this request to the extent that it seeks documents and things that are not within its possession, custody, or control.

REQUEST NO. 35:

To the extent not already produced in response to these requests, all documents identified and referenced in Applicant's initial disclosures.

RESPONSE:

Opposer objects to this request to the extent that it seeks documents and things that are not within its possession, custody, or control.

REQUEST NO. 36:

All documents referring or relating to any comparison between Applicant and Under Armour (including but not limited to similarities or differences in their marks and/or products).

RESPONSE:

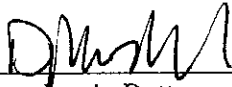
Opposer objects to this request to the extent it seeks information and documents subject to attorney-client and attorney-work-product privileges.

Opposer further objects to this request as overly broad, unduly burdensome, and beyond the scope of discovery in that it seeks "all documents" (emphasis added) referring or relating to any comparison between Applicant and Under Armour, which could include documents that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above general and specific objections, Opposer will make responsive, relevant, and non-privileged documents (if any) available for inspection and copying at the offices of its counsel, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., 901 New York Avenue, NW, Washington, D.C. 20001-4413.

Respectfully Submitted,

Dated: March 28, 2012

By: 
Douglas A. Rettew
Danny M. Awdeh
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Washington, D.C. 20001-4413
Telephone: 202-408-4000

Attorneys for Opposer
UNDER ARMOUR, INC.

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing OBJECTIONS AND
RESPONSES TO APPLICANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
TO OPPOSER was served by email and first class mail, postage prepaid, on this 28th day of
March 2012, upon counsel for Applicant:

Donald Walsh, Esq.
Offit Kurman
8 Park Center Court
Suite 200
Owings Mills, MD 21117

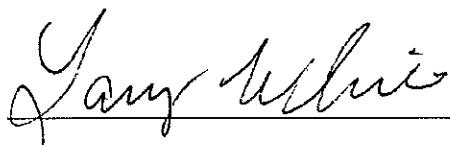


EXHIBIT 4

Walsh, Donald

From: Walsh, Donald
Sent: Tuesday, April 17, 2012 8:27 AM
To: 'Awdeh, Danny'
Subject: UA v. Leftridge

Danny-

Please let me know about whether UA will be amending its answers to interrogatories to appropriately respond otherwise I will file my motion to compel. I would also like to visit your office to review the documents you have on either April 20 or 23. Please let me know if this is possible. If not, please let me know what dates will be possible.

Donald J. Walsh

Offit | Kurman

Attorneys At Law

Chair, Government Contracting Group

8 Park Center Court
Suite 200
Owings Mills, MD 21117
443-738-1583 (Direct - Baltimore)
301-575-0383 (Direct - DC/Metro)
443-738-1535 (Facsimile)

Walsh, Donald

From: Walsh, Donald
Sent: Monday, April 23, 2012 11:55 AM
To: 'Awdeh, Danny'
Cc: Rettew, Doug; White, Larry
Subject: RE: ARMOURADE Opposition

Thanks. I am unavailable on May 4 but will find alternate dates which I and my client are available as well as an acceptable alternative place. We will not be coming to DC for the deposition and it is improper to demand that we do. Please provide acceptable dates for Mr. Morris as well as a corporate representative who can testify to the areas I previously identified.

Please let me know whether you will be amending the nonresponse and objections filed to our Interrogatories. If I have no response, I will simply file my Motion seeking sanctions and move to extend discovery deadline appropriately.

In addition, I have requested on numerous occasions a date when I can review the documents Under Armour is "producing" in your office and have not received the courtesy of a reply. Please let me know when I can review them or whether you will simply be sending me copies.

I look forward to hearing from you.

Donald J. Walsh

Offit | Kurman

Attorneys At Law

Chair, Government Contracting Group

8 Park Center Court
Suite 200
Owings Mills, MD 21117
443-738-1583 (Direct - Baltimore)
301-575-0383 (Direct - DC/Metro)
443-738-1535 (Facsimile)

From: Awdeh, Danny [<mailto:Danny.Awdeh@finnegan.com>]
Sent: Monday, April 23, 2012 11:45 AM
To: Walsh, Donald
Cc: Rettew, Doug; White, Larry
Subject: ARMOURADE Opposition

Don,

Please see the attached discovery served on April 20.

Thanks,

Danny

Danny M. Awdeh

Attorney at Law

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP

901 New York Avenue, NW, Washington, DC 20001-4413

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